

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

NORMAN HENRY LITTLECALF,)	
)	
Plaintiff,)	
vs.)	Case Number CIV-07-1099-C
)	
WADE LOCKE, Deputy)	
)	
Defendant.)	

ORDER

On January 7, 2008, United States Magistrate Valerie Couch issued her Report and Recommendation (R&R) in this action in which Plaintiff pursues a 42 U.S.C. § 1983 action. Judge Couch recommended that Plaintiff's claim be dismissed for failure to timely pay the filing fee.

On October 17, 2007, Plaintiff was granted leave to proceed *in forma pauperis*, and directed to make a payment by November 5, 2007. With no payments reflected in the Court's file, Judge Couch, on November 8, 2007, sua sponte extended the time for Plaintiff to make his first payment. When Plaintiff missed the extended deadline, Judge Couch entered the present R&R recommending dismissal.

Review of the Court's file reflects that on January 22, 2008, Plaintiff made the initial payment of \$10.00. Plaintiff has also filed an objection to the R&R noting that although he has funds available in his account, the responsible person at the facility where he is confined refuses to make the necessary payment.

Given that Plaintiff has now paid his initial installment, the Court will not dismiss this matter. However, Plaintiff is warned that any future failure to make timely payments will

result in dismissal of his case. As Judge Couch noted in the Order granting leave to proceed *in forma pauperis*, an Order will be issued directing the agency to make future payments from Plaintiff's account.

Upon *de novo* review, the Court GRANTS Petitioner's objection and DECLINES to adopt the Report and Recommendation issued by the Magistrate Judge on January 7, 2008. This matter is remanded to the Magistrate Judge for further proceedings as outlined in the Court's September 28, 2007, Order.

IT IS SO ORDERED this 28th day of January, 2008.


ROBIN J. CAUTHRON
United States District Judge